

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

)	
APPALACHIAN VOICES, et al.,)	
)	
Petitioners,)	
v.)	
)	No. 20-2187 (L)
UNITED STATES)	
ENVIRONMENTAL PROTECTION)	
AGENCY, et al.,)	
)	
Respondents.)	
)	

STATUS REPORT

Respondents (collectively, “EPA”) submit this status report in accordance with this Court’s April 8, 2022, order.

1. These consolidated petitions for review challenge an EPA rule entitled “Steam Electric Reconsideration Rule,” 85 Fed. Reg. 64,650 (Oct. 13, 2020).

2. In July 2021, EPA announced its intention to conduct a notice-and-comment rulemaking to reconsider the rule and moved to hold this case in abeyance pending completion of the rulemaking. Mot. to Hold Case in Abeyance (July 26, 2021), Doc. No. 62-1; 86 Fed. Reg. 41,801 (Aug. 3, 2021).

3. On April 8, 2022, the Court granted EPA’s motion and placed this case into abeyance pending the completion of EPA’s rulemaking. Order (Apr. 8,

2022), Doc. No. 83. The Court ordered EPA to file a status report on May 9, 2022, and at thirty-day intervals thereafter. *Id.*

4. Since the EPA's status report filed with this Court on February 22, 2023 (ECF 96), EPA has continued working on the new rulemaking announced in July 2021. On March 7, 2023, EPA signed a notice of proposed rulemaking. EPA has transmitted the notice of proposed rulemaking to the Federal Register to be published for notice and comment, but it has not yet published. Once the comment period has closed, EPA will consider the comments in its assessment of any final rule.

5. Because EPA's reconsideration rulemaking remains ongoing, the Court should continue to hold these petitions in abeyance. In accordance with this Court's April 8, 2022, order, EPA will file another status report in thirty days.

DATE: March 24, 2023

Respectfully submitted,

TODD KIM
Assistant Attorney General

/s/ Kimere J. Kimball
KIMERE J. KIMBALL
U.S. Department of Justice
ENRD/EDS
P.O. Box 7611
Washington, D.C. 20044
(202) 514-2285
Kimere.kimballl@usdoj.gov
Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2023, I filed the foregoing using the Court's CM/ECF system, which will electronically serve all counsel of record registered to use the CM/ECF system.

/s/ Kimere J. Kimball